

Applicant can not find in Dilworth or the Examiner's rejection "a plurality of means for transmitting information at a low power and receiving information" and "a plurality of means for being located proximate to and receiving device information from one or more of the means for transmitting information at a lower power and for wireless communication at a higher power level with other such means for being located proximate to and receiving device information" as recited in claim 39. There is no teaching or suggestion in Dilworth et al. as to operating any of the devices at a low and high power level. In particular, applicant can not find any disclosure in Dilworth et al. relating to power levels.

§103 Rejection of the Claims

Claims 1-3, 5-11 and 13-17 were rejected under 35 USC § 103(a) as being unpatentable over Dilworth et al. in view of Carvey (U.S. 5,699,357). Applicant hereby incorporates all of the arguments made in the Response mailed October 22, 2001.

As mentioned above, Dilworth does not teach or suggest operating any of the devices at a low and high power level. Carvey is directed to a personal digital assistant (PDA) communicating with a number of personal electronic accessories (PEAs). (Carvey, abstract, col. 1 lines 4-8; col. 2 lines 17-30) using "low duty cycle pulsed operation." (Carvey, abstract, col. 1 line 54). Carvey is similar to Dilworth in that Carvey does not teach or suggest integrating any devices that transmit and receive at more than power level.

Therefore, even if Dilworth and Carvey are combined, applicant can not find "a plurality of devices, each device coupled to a low power transceiver that transmits over a short range" and "a plurality of router nodes, each router node having a transceiver capable of receiving device information from one or more proximate wireless devices and capable of wireless communication at a higher power level with other router nodes" as recited in claim 1.

In addition, the combination of Dilworth and Carvey does not disclose "a plurality of devices, each device having a low power battery operated transceiver that communicates information over a short range" and "a router having a transceiver that receives communications from at least one selected device and transmits further communications via a higher power transceiver to other routers" as recited in claim 10.

Applicant is unsure how Dilworth and Carvey could be even combined, but if the

combination could somehow be made, the communication system in Dilworth would merely use the “low duty cycle pulsed operation” of Carvey instead of including devices that operate at multiple power levels.

Applicant respectfully submits that the Examiner has only provided a conclusory statement regarding a motivation to combine Dilworth and Carvey. The Examiner states at page 3 of the Office Action, “[i]t would have been obvious to one of the ordinary skill in the art at the time of the invention to use the features, as taught by Carvey, in the system of Dilworth et al., in order to provide various applications such as monitoring temperature, see column 2, lines 2-13.”

Applicant can not see where column 2, lines 2-13 of Dilworth et al. provide a motivation to use the “low duty cycle pulsed operation” of Carvey. The Examiner’s statement is analogous to those made by the Examiner and Board in the recently decided case *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002).

“With respect to Lee’s application, neither the examiner nor the Board adequately supported the selection and combination of the Nortrup and Thunderchopper references to render obvious that which Lee described. The examiner’s conclusory statements that ‘the demonstration mode is just a programmable feature which can be used in many different devices for providing automatic introduction by adding the proper programming software’ and that ‘another motivation would be that the automatic demonstration mode is user friendly and it functions as tutorial’ do not adequately address the issue of motivation to combine. This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining whether a person of ordinary skill in the art would have been lead to this combination of references, simply to use ‘[use] that which the inventor taught against its teacher.’ *W.L. Gore V. Garlock, Inc.*, 721 F. 2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983).” *Lee*, at 1343, 1344.

The Examiner’s statement also fails to explain how Dilworth et al. would be modified by Carvey. It is respectfully submitted that the assertion amounts to a form of Official Notice, which is timely traversed under MPEP 2144.03. Applicant respectfully requests that the Examiner cite with particularity a piece of prior art that provides an objective motivation to combine Dilworth and Carvey, or to withdraw the pending rejection.

Claims 26-28 were also rejected under 35 USC § 103(a) as being unpatentable over Dilworth et al. in view of Parken (U.S. 5,010,583). Applicant hereby incorporates all of the arguments made in the Response mailed October 22, 2001.

This rejection is respectfully traversed. As mentioned above, Dilworth et al. do not teach or suggest operating any of the devices at more than one power level, such as high and low power levels. Parken is directed to a portable or mobile communication unit 130 that includes a wide area coverage multiple repeater system. Parken is similar to Dilworth in that Parken does not teach or suggest operating any of the devices at more than power level. The only disclosure in Parken related to power levels is at column 2, line 67 through column 3, line 1 which describes monitoring the received signal strength in a cellular network.

Therefore, even if Dilworth and Parken are combined, applicant can not find "a second router node having a first receiver for receiving low power transmissions of physical condition related information from a plurality of devices located proximate the second router node, a second receiver for receiving high bandwidth transmissions from other routers in the system, and a first transmitter coupled to the first and second receivers that transmits information from the plurality of devices at a relatively high power to the first router node" as claimed in claims 26-28. The combination of Dilworth and Parken would merely place the Parken repeater system in the Dilworth cellular communication system with all of the devices in the communication system still operating at one power level instead of receiving and transmitting at low and high power levels like the router in claims 26-28.

Applicant respectfully submits that the Examiner has only provided a conclusory statement regarding a motivation to combine Dilworth and Parken. The Examiner states at page 4 of the Office Action, "[i]t would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Dilworth et al., by using the features, as taught by Parken, in order to reduce the possibilities of transmission collisions. See column 1, lines 20-22."

Applicant can not see where column 1, lines 20-22 of Dilworth et al. provide a motivation to use the wide area coverage multiple repeater system of Parken. The Examiner's statement is analogous to the conclusory statements made by the Examiner and Board in the recently decided case *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002).

The Examiner's statement also fails to explain how Dilworth would be modified by Parken. It is respectfully submitted that the assertion amounts to a form of Official Notice, which is timely traversed under MPEP 2144.03. Applicant respectfully requests that the Examiner cite with particularity a piece of prior art that provides an objective motivation to combine Dilworth

and Parken, or to withdraw the pending rejection.

As part of the *Response to Arguments* on page 6 of the Office Action, the Examiner states “[I]t is well known in the art that the lap top computer data terminal 123 in Dilworth et al. utilizes a low power transmission by using a low power battery.” Applicant respectfully traverses this statement. Applicant can not find support for the statement in any of the cited references.

Claim 30 was also rejected under 35 USC § 103(a) as being unpatentable over Parken in view of Carvey. Applicant hereby incorporates all of the arguments made in the Response mailed October 22, 2001. As mentioned above, Parken is directed to a portable or mobile communication unit 130 that includes a wide area coverage multiple repeater system, and Carvey is directed to a PDA communicating with a number of personal electronic accessories using “low duty cycle pulsed operation.” Carvey and Parken are similar in that they do not teach or suggest integrating any of the devices that operate at more than power level.

Therefore, even if Parken and Carvey are combined, applicant can not find “a first transceiver that receives low power transmissions of information from a plurality of devices located proximate the router node” and “a second transceiver that receives high bandwidth transmissions from other routers in the system, wherein the second transceiver further transmits information from the plurality of devices at a higher power level than the received low power transmissions” as recited in claim 30.

Applicant respectfully submits that the Examiner has only provided a conclusory statement regarding a motivation to combine Parken and Carvey. The Examiner states at page 4 of the Office Action, “[i]t would have been obvious to one of the ordinary skill in the art at the time of the invention to use the features, as taught by Carvey, in the system of Parken in order to provide various applications such as monitoring temperature, see column 2, lines 2-13.”

Applicant can not see where column 2, lines 2-13 of Parken or Carvey provide a motivation to use the “low duty cycle pulsed operation” of Carvey in the wide area coverage multiple repeater system of Parken. The Examiner’s statement is analogous to the conclusory statements made by the Examiner and Board in the recently decided case *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002).

The Examiner’s statement also fails to explain how Parken would be modified by Carvey. It is respectfully submitted that the assertion amounts to a form of Official Notice, which is timely

traversed under MPEP 2144.03. Applicant respectfully requests that the Examiner cite with particularity a piece of prior art that provides an objective motivation to combine Dilworth and Parken, or to withdraw the pending rejection.

Claims 31-35 were also rejected under 35 USC § 103(a) as being unpatentable over Parken in view of Carvey, and further in view of Dilworth et al. Applicant hereby incorporates all of the arguments made in the Response mailed October 22, 2001. Claims 31-35 depend claim 30 such that claims 31-35 incorporate all of the limitations of claim 30.

As mentioned above, (i) Dilworth does not teach or suggest operating any of the devices at more than power level; (ii) Parken is directed to a portable or mobile communication unit 130 that includes a wide area coverage multiple repeater system; and (iii) Carvey is directed to a PDA communicating with a number of personal electronic accessories using “low duty cycle pulsed operation.” Dilworth, Parken and Carvey do not teach or suggest either singularly, or in combination, integrating devices that receive and transmit at a low and high power level.

Therefore, even if Parken, Carvey and Dilworth et al. are combined, applicant can not find “a first transceiver that receives low power transmissions of information from a plurality of devices located proximate the router node” and “a second transceiver that receives high bandwidth transmissions from other routers in the system, wherein the second transceiver further transmits information from the plurality of devices at a higher power level than the received low power transmissions” as recited in claim 30 and corresponding dependent claims 31-35.

Applicant respectfully submits that the Examiner has only provided a conclusory statement regarding a motivation to combine Parken and Carvey. The Examiner states at page 5 of the Office Action, “[i]t would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Parken and Carvey, by using the features, as taught by Dilworth et al., in order to provide a secure data transmission system.” The Examiner’s statement is analogous to the conclusory statements made by the Examiner and Board in the recently decided case *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002).

The Examiner’s statement also fails to explain how Parken would be modified by Carvey. It is respectfully submitted that the assertion amounts to a form of Official Notice, which is timely traversed under MPEP 2144.03. Applicant respectfully requests that the Examiner cite with particularity a piece of prior art that provides an objective motivation to combine Dilworth and

Parken, or to withdraw the pending rejection.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612-373-6972) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Box AF, Commissioner of Patents, Washington, D.C. 20231, on this 15th day of July, 2002.

Anne M. Richards

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